

Appl. No. 10/027,265
Amdt. dated June 30, 2005
Reply to Office Action of April 5, 2005

REMARKS

Claims 1-79 are pending in the instant application. In the Office Action mailed April 5, 2005, the Examiner rejects claims 41, 43-46, 48-51, and 53-58. Claims 1-40, 42, 47, 52, and 59-74 are withdrawn from consideration.

By virtue of the amendments to the claims presented above, independent claims 41, 46, and 51 are amended. New claims 75-79 are presented. No new subject matter is added. Based on the amendments and remarks made herein, Applicants respectfully request that the rejections be withdrawn and that the application be passed to allowance.

1. Remarks on Paragraphs 2-3 of the Office Action mailed on April 5, 2005: Rejection of Claims 41 and 43 Under 35 U.S.C. §102(b)

In the Office Action mailed April 5, 2005, the Examiner rejects claims 41 and 43 as being unpatentable under 35 U.S.C. §102(b) over U.S. Patent No. 4,327,744 to Smith (hereinafter "the Smith patent").

The Examiner believes the Smith patent discloses the subject matter of claims 41 and 43. Claim 41 as amended is directed to a method for collecting a sample from a test subject, the method including providing a device adapted to capture and retain the sample, wherein the device includes a generally tubular nonwoven body including a generally tubular inner surface defined by an interior layer, the inner surface defining a pocket therewithin, the pocket having a distal end and a proximal end, the distal end being generally closed and the proximal end being generally open, the proximal end being configured to allow the insertion of a finger into the pocket through the proximal end, and a generally tubular outer surface; inserting a finger into the pocket; and contacting the sample with the device. Claim 43 depends from claim 41.

The Smith patent does not disclose the subject matter of the amended claim 41.

In view of the remarks set forth in this section, Applicants respectfully submit that claims 41 and 43 are in condition for allowance and respectfully request favorable consideration and the timely allowance of those claims.

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2. Remarks on Paragraph 4 of the Office Action mailed on April 5, 2005: Rejection of Claims 41-45 Under 35 U.S.C. §102(b)

In the Office Action mailed April 5, 2005, the Examiner rejects claims 41-45 as being unpatentable under 35 U.S.C. §102(b) over U.S. Patent No. 4,920,974 to Roth et al. (hereinafter "the Roth patent").

The Examiner believes the Roth patent discloses the subject matter of claims 41-45. Claim 41 as amended is described above. Claims 43-45 depend from claim 41 (Claim 42 is withdrawn). The Roth patent does not disclose the subject matter of the amended claim 41.

In view of the remarks set forth in this section, Applicants respectfully submit that claims 41 and 43-45 are in condition for allowance and respectfully request favorable consideration and the timely allowance of those claims.

3. Remarks on Paragraph 5 of the Office Action mailed on April 5, 2005: Rejection of Claims 41, 43, 51, 53, 56, and 57 Under 35 U.S.C. §102(b)

In the Office Action mailed April 5, 2005, the Examiner rejects claims 41, 43, 51, 53, 56, and 57 as being unpatentable under 35 U.S.C. §102(b) over U.S. Patent No. 6,123,676 to Anaplotis (hereinafter "the Anaplotis patent").

The Examiner believes the Anaplotis patent discloses the subject matter of claims 41, 43, 51, 53, 56, and 57. Claim 41 as amended is described above. Claim 43 depends from claim 41. The Anaplotis patent does not disclose the subject matter of the amended claim 41.

Claim 51 as amended is directed to a method for analyzing a sample, the method including providing a device adapted to capture and retain the sample, wherein the device includes a generally tubular nonwoven body including a generally tubular inner surface defined by an interior layer, the inner surface defining a pocket therewithin, the pocket having a distal end and a proximal end, the distal end being generally closed and the proximal end being generally open, the proximal end being configured to allow the insertion of a finger into the pocket through the proximal end, and a generally tubular outer surface including an indicator agent, contacting the substance to be sampled with the device; and observing the reaction of the sample with the indicator agent on the device. Claims 53, 56, and 57 depend from claim 51. The Anaplotis patent does not disclose the subject matter of the amended claim 51.

In view of the remarks set forth in this section, Applicants respectfully submit that claims 41, 43, 51, 53, 56, and 57 are in condition for allowance and respectfully request favorable consideration and the timely allowance of those claims.

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4. Remarks on Paragraphs 6-7 of the Office Action mailed on April 5, 2005: Rejection of Claims 41 and 43 Under 35 U.S.C. §102(e)

In the Office Action mailed April 5, 2005, the Examiner rejects claims 41, 43, 46, and 48 as being unpatentable under 35 U.S.C. §102(e) over U.S. Patent Application Publication No. 2004/0092843 to Kreiser et al. (hereinafter "the Krieser application").

The Examiner believes the Kreiser application discloses the subject matter of claims 41, 43, 46, and 48. Claim 41 as amended is described above. Claim 43 depends from claim 41. The Kreiser application does not disclose the subject matter of the amended claim 41.

Claim 46 as amended is directed to a method for analyzing a sample, the method including providing a device adapted to capture and retain the sample, wherein the device includes a generally tubular nonwoven body including a generally tubular inner surface defined by an interior layer, the inner surface defining a pocket therewithin, the pocket having a distal end and a proximal end, the distal end being generally closed and the proximal end being generally open, the proximal end being configured to allow the insertion of a finger into the pocket through the proximal end, and a generally tubular outer surface; contacting the substance to be sampled with the device; and analyzing the device using a reader. Claim 48 depends from claim 46. The Kreiser application does not disclose the subject matter of the amended claim 46.

In view of the remarks set forth in this section, Applicants respectfully submit that claims 41, 43, 46, and 48 are in condition for allowance and respectfully request favorable consideration and the timely allowance of those claims.

5. Remarks on Paragraph 9 of the Office Action mailed on April 5, 2005: Rejection of Claims 44, 45, 54, and 55 as Obvious

In the Office Action mailed April 5, 2005, the Examiner rejects claims 44, 45, 54, and 55 as being unpatentable under 35 U.S.C. §103(a) over the Anaplotis patent in view of U.S. Patent No. 6,114,024 to Forte ("the Forte patent"). Applicants respectfully traverse the rejection.

As discussed above with respect to amended claims 41 and 51, the Anaplotis patent does not teach or suggest all of the claim limitations of claims 41 or 51. The Anaplotis patent therefore cannot teach or suggest all of the claim limitations of their dependent claims 44, 45, 54, and 55. The Forte patent does not correct these deficiencies.

In view of the remarks set forth in this section, Applicants respectfully submit that claims 44, 45, 54, and 55 are in condition for allowance and respectfully request favorable consideration and the timely allowance of those claims.

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6. Remarks on Paragraph 10 of the Office Action mailed on April 5, 2005: Rejection of Claims 49 and 50 as Obvious

In the Office Action mailed April 5, 2005, the Examiner rejects claims 49 and 50 as being unpatentable under 35 U.S.C. §103(a) over the Kreiser application in view of the Forte patent. Applicants respectfully traverse the rejection.

As discussed above with respect to amended claim 46, the Kreiser application does not teach or suggest all of the claim limitations of claim 46. The Kreiser application therefore cannot teach or suggest all of the claim limitations of its dependent claims 49 and 50. The Forte patent does not correct these deficiencies.

In view of the remarks set forth in this section, Applicants respectfully submit that claims 49 and 50 are in condition for allowance and respectfully request favorable consideration and the timely allowance of those claims.

7. Remarks on Paragraph 11 of the Office Action mailed on April 5, 2005: Rejection of Claim 58 as Obvious

In the Office Action mailed April 5, 2005, the Examiner rejects claim 58 as being unpatentable under 35 U.S.C. §103(a) over the Anaplotis patent in view of U.S. Patent No. 5,660,790 to Lawrence et al. ("the Lawrence patent"). Applicants respectfully traverse the rejection.

As discussed above with respect to amended claim 51, the Anaplotis patent does not teach or suggest all of the claim limitations of claim 51. The Kreiser application therefore cannot teach or suggest all of the claim limitations of its dependent claim 58. The Lawrence patent does not correct these deficiencies.

In view of the remarks set forth in this section, Applicants respectfully submit that claim 58 is in condition for allowance and respectfully request favorable consideration and the timely allowance of that claim.

In conclusion, and in view of the remarks set forth above, Applicants respectfully submit that the application and the claims are in condition for allowance and respectfully request favorable consideration and the timely allowance of pending claims 41, 43-46, 48-51, 53-58, and 75-79. If any additional information is required, the Examiner is invited to contact the undersigned at (920) 721-8863.

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The Commissioner is hereby authorized to charge any prosecutorial fees (or credit any overpayment) associated with this communication to Kimberly-Clark Worldwide, Inc. deposit account number 11-0875. If a fee is required for an extension of time under 37 C.F.R. 1.136 not accounted for above, such extension is requested and should also be charged to our Deposit Account.

The undersigned may be reached at: (920) 721-8863.

Respectfully submitted,

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CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this correspondence is being facsimile transmitted to the United State Patent and Trademark Office Fax No. (703) 872-9306 on June 30, 2005.

By: 

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